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II

110TH CONGRESS
1ST SESSION

S. 1605

To amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 13, 2007

Mr. CONRAD (for himself, Mr. ROBERTS, Mr. HARKIN, Mr. SALAZAR, Mr. DOMENICI, Mr. BINGAMAN, Mr. SMITH, Mr. NELSON of Nebraska, Ms. SNOWE, Mrs. MURRAY, Mr. THUNE, Mr. DORGAN, Ms. COLLINS, Mr. JOHNSON, Mr. ENZI, and Mrs. LINCOLN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “**Craig Thomas Rural Hospital and Provider Equity Act**
6 **of 2007**”.

1 (b) TABLE OF CONTENTS.—The table of contents of
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Fairness in the Medicare disproportionate share hospital (DSH) adjustment for rural hospitals.
- Sec. 3. Revision of the Medicare hold harmless provision under the prospective payment system for hospital outpatient department (HOPD) services.
- Sec. 4. Improvement of definition of low-volume hospital for purposes of the Medicare inpatient hospital payment adjustment.
- Sec. 5. Extension of Medicare wage index reclassifications for certain hospitals.
- Sec. 6. Extension of Medicare reasonable costs payments for certain clinical diagnostic laboratory tests furnished to hospital patients in certain rural areas.
- Sec. 7. Critical access hospital improvements.
- Sec. 8. Capital infrastructure revolving loan program.
- Sec. 9. Extension of Medicare incentive payment program for physician scarcity areas.
- Sec. 10. Extension of floor on Medicare work geographic adjustment.
- Sec. 11. Improving care planning for Medicare home health services.
- Sec. 12. Rural health clinic improvements.
- Sec. 13. Community health center collaborative access expansion.
- Sec. 14. Application of the temporary Medicare payment increase for home health services furnished in a rural area to 2008.
- Sec. 15. Extension of increased Medicare payments for rural ground ambulance services.
- Sec. 16. Coverage of marriage and family therapist services and mental health counselor services under part B of the Medicare program.
- Sec. 17. Extension of treatment of certain physician pathology services under Medicare.
- Sec. 18. Medicare remote monitoring pilot projects.
- Sec. 19. Facilitating the provision of telehealth services across State lines.

3 **SEC. 2. FAIRNESS IN THE MEDICARE DISPROPORTIONATE**
 4 **SHARE HOSPITAL (DSH) ADJUSTMENT FOR**
 5 **RURAL HOSPITALS.**

6 Section 1886(d)(5)(F)(xiv)(II) of the Social Security
 7 Act (42 U.S.C. 1395ww(d)(5)(F)(xiv)(II)) is amended—

8 (1) by striking “or, in the case” and all that
 9 follows through “subparagraph (G)(iv)”; and

10 (2) by inserting at the end the following new
 11 sentence: “The preceding sentence shall not apply to

any hospital with respect to discharges occurring on
or after October 1, 2008.”.

**SEC. 3. REVISION OF THE MEDICARE HOLD HARMLESS
PROVISION UNDER THE PROSPECTIVE PAY-
MENT SYSTEM FOR HOSPITAL OUTPATIENT
DEPARTMENT (HOPD) SERVICES.**

Section 1833(t)(7)(D)(i) of the Social Security Act
(42 U.S.C. 1395l(t)(7)(D)(i)) is amended—

(1) in subclause (II), by striking “85 percent”
and inserting “100 percent”; and

(2) by adding at the end the following new sub-
clause:

“(III) In the case of a sole community
hospital (as defined in section
1886(d)(5)(D)(iii)), for covered OPD serv-
ices furnished during 2008, for which the
PPS amount is less than the pre-BBA
amount, the amount of payment under this
subsection shall be increased by the
amount of such difference.”.

1 **SEC. 4. IMPROVEMENT OF DEFINITION OF LOW-VOLUME**
 2 **HOSPITAL FOR PURPOSES OF THE MEDICARE**
 3 **INPATIENT HOSPITAL PAYMENT ADJUST-**
 4 **MENT.**

5 Section 1886(d)(12)(C)(i) of the Social Security Act
 6 (42 U.S.C. 1395ww(d)(12)(C)(i)) is amended by inserting
 7 “(or, beginning with fiscal year 2008, 2,000 discharges)”
 8 after “800 discharges”.

9 **SEC. 5. EXTENSION OF MEDICARE WAGE INDEX RECLASSI-**
 10 **FICATIONS FOR CERTAIN HOSPITALS.**

11 (a) **EXTENSION OF CORRECTION OF MID-YEAR RE-**
 12 **CLASSIFICATION EXPIRATION FOR CERTAIN HOS-**
 13 **PITALS.—**

14 (1) **IN GENERAL.**—In the case of a hospital de-
 15 scribed in paragraph (2), effective September 30,
 16 2007, the Secretary of Health and Human Services
 17 shall apply subsection (a) of section 106 of division
 18 B of the Tax Relief and Health Care Act of 2006
 19 (42 U.S.C. 1395ww note) by substituting “Sep-
 20 tember 30, 2008” for “September 30, 2007”.

21 (2) **HOSPITAL DESCRIBED.**—A hospital de-
 22 scribed in this paragraph is a hospital—

23 (A) that is described in subsection (a) of
 24 such section 106; and

25 (B)(i) that is located in a State with less
 26 than 10 people per square mile; or

(ii)(I) that is located in a rural area; and

(II) for which the Secretary of Health and

Human Services has determined the extension

under this subsection to be appropriate.

(b) **ADDITIONAL EXTENSION.**—The Secretary of Health and Human Services shall extend the special exception reclassification of a sole community hospital located in a State with less than 10 people per square mile (made under the authority of section 1886(d)(5)(I)(i) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(I)(i)) and contained in the final rule promulgated by the Secretary in the Federal Register on August 11, 2004 (69 Fed. Reg. 49107)) for 1 year through September 30, 2008.

(c) **NOT BUDGET NEUTRAL.**—The provisions of this section shall not be effected in a budget-neutral manner.

SEC. 6. EXTENSION OF MEDICARE REASONABLE COSTS PAYMENTS FOR CERTAIN CLINICAL DIAGNOSTIC LABORATORY TESTS FURNISHED TO HOSPITAL PATIENTS IN CERTAIN RURAL AREAS.

Section 416(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395l–4(b)), as amended by section 105 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C.

1 1395l note), is amended by striking “3-year” and insert-
2 ing “5-year”.

3 **SEC. 7. CRITICAL ACCESS HOSPITAL IMPROVEMENTS.**

4 (a) CLARIFICATION OF PAYMENT FOR CLINICAL
5 LABORATORY TESTS FURNISHED BY CRITICAL ACCESS
6 HOSPITALS.—

7 (1) IN GENERAL.—Section 1834(g)(4) of the
8 Social Security Act (42 U.S.C. 1395m(g)(4)) is
9 amended—

10 (A) in the heading, by striking “NO BENE-
11 FICIARY COST-SHARING FOR” and inserting
12 “TREATMENT OF”; and

13 (B) by adding at the end the following new
14 sentence: “For purposes of the preceding sen-
15 tence and section 1861(mm)(3), clinical diag-
16 nostic laboratory services furnished by a critical
17 access hospital shall be treated as being fur-
18 nished as part of outpatient critical access serv-
19 ices without regard to whether—

20 “(A) the individual with respect to whom
21 such services are furnished is physically present
22 in the critical access hospital at the time the
23 specimen is collected;

24 “(B) such individual is registered as an
25 outpatient on the records of, and receives such

services directly from, the critical access hospital; or

“(C) payment is (or, but for this subsection, would be) available for such services under the fee schedule established under section 1833(h).”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to cost reporting periods beginning on or after the date of enactment of this Act.

(b) ELIMINATION OF ISOLATION TEST FOR COST-BASED AMBULANCE REIMBURSEMENT.—

(1) IN GENERAL.—Section 1834(l)(8) of the Social Security Act (42 U.S.C. 1395m(l)(8)) is amended—

(A) in subparagraph (B)—

(i) by striking “owned and”; and

(ii) by inserting “(including when such services are provided by the entity under an arrangement with the hospital)” after “hospital”; and

(B) by striking the comma at the end of subparagraph (B) and all that follows and inserting a period.

1 (2) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to services furnished
3 on or after January 1, 2008.

4 **SEC. 8. CAPITAL INFRASTRUCTURE REVOLVING LOAN PRO-**
5 **GRAM.**

6 (a) IN GENERAL.—Part A of title XVI of the Public
7 Health Service Act (42 U.S.C. 300q et seq.) is amended
8 by adding at the end the following new section:

9 “CAPITAL INFRASTRUCTURE REVOLVING LOAN PROGRAM
10 “SEC. 1603. (a) AUTHORITY TO MAKE AND GUAR-
11 ANTEE LOANS.—

12 “(1) AUTHORITY TO MAKE LOANS.—The Sec-
13 retary may make loans from the fund established
14 under section 1602(d) to any rural entity for
15 projects for capital improvements, including—

16 “(A) the acquisition of land necessary for
17 the capital improvements;

18 “(B) the renovation or modernization of
19 any building;

20 “(C) the acquisition or repair of fixed or
21 major movable equipment; and

22 “(D) such other project expenses as the
23 Secretary determines appropriate.

24 “(2) AUTHORITY TO GUARANTEE LOANS.—

25 “(A) IN GENERAL.—The Secretary may
26 guarantee the payment of principal and interest

for loans made to rural entities for projects for any capital improvement described in paragraph (1) to any non-Federal lender.

“(B) INTEREST SUBSIDIES.—In the case of a guarantee of any loan made to a rural entity under subparagraph (A), the Secretary may pay to the holder of such loan, for and on behalf of the project for which the loan was made, amounts sufficient to reduce (by not more than 3 percent) the net effective interest rate otherwise payable on such loan.

“(b) AMOUNT OF LOAN.—The principal amount of a loan directly made or guaranteed under subsection (a) for a project for capital improvement may not exceed \$5,000,000.

“(c) FUNDING LIMITATIONS.—

“(1) GOVERNMENT CREDIT SUBSIDY EXPOSURE.—The total of the Government credit subsidy exposure under the Credit Reform Act of 1990 scoring protocol with respect to the loans outstanding at any time with respect to which guarantees have been issued, or which have been directly made, under subsection (a) may not exceed \$50,000,000 per year.

“(2) TOTAL AMOUNTS.—Subject to paragraph (1), the total of the principal amount of all loans di-

1 rectly made or guaranteed under subsection (a) may
2 not exceed \$250,000,000 per year.

3 “(d) CAPITAL ASSESSMENT AND PLANNING
4 GRANTS.—

5 “(1) NONREPAYABLE GRANTS.—Subject to
6 paragraph (2), the Secretary may make a grant to
7 a rural entity, in an amount not to exceed \$50,000,
8 for purposes of capital assessment and business
9 planning.

10 “(2) LIMITATION.—The cumulative total of
11 grants awarded under this subsection may not ex-
12 ceed \$2,500,000 per year.

13 “(e) TERMINATION OF AUTHORITY.—The Secretary
14 may not directly make or guarantee any loan under sub-
15 section (a) or make a grant under subsection (d) after
16 September 30, 2011.”.

17 (b) RURAL ENTITY DEFINED.—Section 1624 of the
18 Public Health Service Act (42 U.S.C. 300s–3) is amended
19 by adding at the end the following new paragraph:

20 “(15)(A) The term ‘rural entity’ includes—

21 “(i) a rural health clinic, as defined in sec-
22 tion 1861(aa)(2) of the Social Security Act;

23 “(ii) any medical facility with at least 1
24 bed, but with less than 50 beds, that is located
25 in—

1 “(I) a county that is not part of a
2 metropolitan statistical area; or

3 “(II) a rural census tract of a metro-
4 politan statistical area (as determined
5 under the most recent modification of the
6 Goldsmith Modification, originally pub-
7 lished in the Federal Register on February
8 27, 1992 (57 Fed. Reg. 6725));

9 “(iii) a hospital that is classified as a
10 rural, regional, or national referral center under
11 section 1886(d)(5)(C) of the Social Security
12 Act; and

13 “(iv) a hospital that is a sole community
14 hospital (as defined in section
15 1886(d)(5)(D)(iii) of the Social Security Act).

16 “(B) For purposes of subparagraph (A), the
17 fact that a clinic, facility, or hospital has been geo-
18 graphically reclassified under the Medicare program
19 under title XVIII of the Social Security Act shall not
20 preclude a hospital from being considered a rural en-
21 tity under clause (i) or (ii) of subparagraph (A).”.

22 (c) CONFORMING AMENDMENTS.—Section 1602 of
23 the Public Health Service Act (42 U.S.C. 300q–2) is
24 amended—

1 (1) in subsection (b)(2)(D), by inserting “or
2 1603(a)(2)(B)” after “1601(a)(2)(B)”; and

3 (2) in subsection (d)—

4 (A) in paragraph (1)(C), by striking “sec-
5 tion 1601(a)(2)(B)” and inserting “sections
6 1601(a)(2)(B) and 1603(a)(2)(B)”; and

7 (B) in paragraph (2)(A), by inserting “or
8 1603(a)(2)(B)” after “1601(a)(2)(B)”.

9 **SEC. 9. EXTENSION OF MEDICARE INCENTIVE PAYMENT**
10 **PROGRAM FOR PHYSICIAN SCARCITY AREAS.**

11 Section 1833(u)(1) of the Social Security Act (42
12 U.S.C. 1395l(u)(1)) is amended by striking “before Janu-
13 ary 1, 2008” and inserting “before January 1, 2010”.

14 **SEC. 10. EXTENSION OF FLOOR ON MEDICARE WORK GEO-**
15 **GRAPHIC ADJUSTMENT.**

16 Section 1848(e)(1)(E) of the Social Security Act (42
17 U.S.C. 1395w-4(e)(1)(E)), as amended by section 102 of
18 division B of the Tax Relief and Health Care Act of 2006,
19 is amended by striking “before January 1, 2008” and in-
20 serting “before January 1, 2010”.

21 **SEC. 11. IMPROVING CARE PLANNING FOR MEDICARE**
22 **HOME HEALTH SERVICES.**

23 (a) **IN GENERAL.**—Section 1814(a)(2) of the Social
24 Security Act (42 U.S.C. 1395f(a)(2)), in the matter pre-
25 ceding subparagraph (A), is amended—

(1) by inserting “(as those terms are defined in section 1861(aa)(5))” after “clinical nurse specialist”; and

(2) by inserting “, or in the case of services described in subparagraph (C), a physician, or a nurse practitioner or clinical nurse specialist who is working in collaboration with a physician in accordance with State law, or a certified nurse-midwife (as defined in section 1861(gg)) as authorized by State law, or a physician assistant (as defined in section 1861(aa)(5)) under the supervision of a physician” after “collaboration with a physician”.

(b) CONFORMING AMENDMENTS.—(1) Section 1814(a) of the Social Security Act (42 U.S.C. 1395f(a)) is amended—

(A) in paragraph (2)(C), by inserting “, a nurse practitioner, a clinical nurse specialist, a certified nurse-midwife, or a physician assistant (as the case may be)” after “physician” each place it appears;

(B) in the second sentence, by striking “or clinical nurse specialist” and inserting “clinical nurse specialist, certified nurse-midwife, or physician assistant”;

(C) in the third sentence—

1 (i) by striking “physician certification”
2 and inserting “certification”;

3 (ii) by inserting “(or on January 1, 2008,
4 in the case of regulations to implement the
5 amendments made by section 2 of the Home
6 Health Care Planning Improvement Act of
7 2007)” after “1981”; and

8 (iii) by striking “a physician who” and in-
9 serting “a physician, nurse practitioner, clinical
10 nurse specialist, certified nurse-midwife, or phy-
11 sician assistant who”; and

12 (D) in the fourth sentence, by inserting “,
13 nurse practitioner, clinical nurse specialist, certified
14 nurse-midwife, or physician assistant” after “physi-
15 cian”.

16 (2) Section 1835(a) of the Social Security Act (42
17 U.S.C. 1395n(a)) is amended—

18 (A) in paragraph (2)—

19 (i) in the matter preceding subparagraph
20 (A), by inserting “or, in the case of services de-
21 scribed in subparagraph (A), a physician, or a
22 nurse practitioner or clinical nurse specialist (as
23 those terms are defined in 1861(aa)(5)) who is
24 working in collaboration with a physician in ac-
25 cordance with State law, or a certified nurse-

1 midwife (as defined in section 1861(gg)) as au-
2 thorized by State law, or a physician assistant
3 (as defined in section 1861(aa)(5)) under the
4 supervision of a physician” after “a physician”;
5 and

6 (ii) in each of clauses (ii) and (iii) of sub-
7 paragraph (A) by inserting “, a nurse practi-
8 tioner, a clinical nurse specialist, a certified
9 nurse-midwife, or a physician assistant (as the
10 case may be)” after “physician”;

11 (B) in the third sentence, by inserting “, nurse
12 practitioner, clinical nurse specialist, certified nurse-
13 midwife, or physician assistant (as the case may
14 be)” after physician;

15 (C) in the fourth sentence—

16 (i) by striking “physician certification”
17 and inserting “certification”;

18 (ii) by inserting “(or on January 1, 2008,
19 in the case of regulations to implement the
20 amendments made by section 2 of the Home
21 Health Care Planning Improvement Act of
22 2007)” after “1981”; and

23 (iii) by striking “a physician who” and in-
24 serting “a physician, nurse practitioner, clinical

1 nurse specialist, certified nurse-midwife, or phy-
2 sician assistant who”; and

3 (D) in the fifth sentence, by inserting “, nurse
4 practitioner, clinical nurse specialist, certified nurse-
5 midwife, or physician assistant” after “physician”.

6 (3) Section 1861 of the Social Security Act (42
7 U.S.C. 1395x) is amended—

8 (A) in subsection (m)—

9 (i) in the matter preceding paragraph
10 (1)—

11 (I) by inserting “a nurse practitioner
12 or a clinical nurse specialist (as those
13 terms are defined in subsection (aa)(5)), a
14 certified nurse-midwife (as defined in sec-
15 tion 1861(gg)), or a physician assistant (as
16 defined in subsection (aa)(5))” after “phy-
17 sician” the first place it appears; and

18 (II) by inserting “a nurse practi-
19 tioner, a clinical nurse specialist, a cer-
20 tified nurse-midwife, or a physician assist-
21 ant” after “physician” the second place it
22 appears; and

23 (ii) in paragraph (3), by inserting “a nurse
24 practitioner, a clinical nurse specialist, a cer-

1 tified nurse-midwife, or a physician assistant”

2 after “physician”; and

3 (B) in subsection (o)(2)—

4 (i) by inserting “, nurse practitioners or
5 clinical nurse specialists (as those terms are de-
6 fined in subsection (aa)(5)), certified nurse-mid-
7 wives (as defined in section 1861(gg)), or physi-
8 cian assistants (as defined in subsection
9 (aa)(5))” after “physicians”; and

10 (ii) by inserting “, nurse practitioner, clin-
11 ical nurse specialist, certified nurse-midwife,
12 physician assistant,” after “physician”.

13 (4) Section 1895 of the Social Security Act (42
14 U.S.C. 1395fff) is amended—

15 (A) in subsection (c)(1), by inserting “, the
16 nurse practitioner or clinical nurse specialist (as
17 those terms are defined in section 1861(aa)(5)), the
18 certified nurse-midwife (as defined in section
19 1861(gg)), or the physician assistant (as defined in
20 section 1861(aa)(5)),” after “physician”; and

21 (B) in subsection (e)—

22 (i) in paragraph (1)(A), by inserting “, a
23 nurse practitioner or clinical nurse specialist (as
24 those terms are defined in section 1861(aa)(5)),
25 a certified nurse-midwife (as defined in section

1 1861(gg)), or a physician assistant (as defined
2 in section 1861(aa)(5))” after “physician”; and

3 (ii) in paragraph (2)—

4 (I) in the heading, by striking “PHY-
5 SICIAN CERTIFICATION” and inserting
6 “RULE OF CONSTRUCTION REGARDING RE-
7 QUIREMENT FOR CERTIFICATION”; and

8 (II) by striking “physician”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to items and services furnished on
11 or after January 1, 2008.

12 **SEC. 12. RURAL HEALTH CLINIC IMPROVEMENTS.**

13 Section 1833(f) of the Social Security Act (42 U.S.C.
14 1395l(f)) is amended—

15 (1) in paragraph (1), by striking “, and” at the
16 end and inserting a semicolon;

17 (2) in paragraph (2)—

18 (A) by inserting “(before 2008)” after “in
19 a subsequent year”; and

20 (B) by striking the period at the end and
21 inserting a semicolon; and

22 (3) by adding at the end the following new
23 paragraphs:

24 “(3) in 2008, at \$92 per visit; and

“(4) in a subsequent year, at the limit established under this subsection for the previous year increased by the percentage increase in the MEI (as so defined) applicable to primary care services (as so defined) furnished as of the first day of that year.”.

**SEC. 13. COMMUNITY HEALTH CENTER COLLABORATIVE
ACCESS EXPANSION.**

Section 330 of the Public Health Service Act (42 U.S.C. 254b) is amended by adding at the end the following:

“(s) MISCELLANEOUS PROVISIONS.—

“(1) RULE OF CONSTRUCTION WITH RESPECT
TO RURAL HEALTH CLINICS.—

“(A) IN GENERAL.—Nothing in this section shall be construed to prevent a community health center from contracting with a federally certified rural health clinic (as defined by section 1861(aa)(2) of the Social Security Act) for the delivery of primary health care services that are available at the rural health clinic to individuals who would otherwise be eligible for free or reduced cost care if that individual were able to obtain that care at the community health center. Such services may be limited in scope to

1 those primary health care services available in
2 that rural health clinic.

3 “(B) ASSURANCES.—In order for a rural
4 health clinic to receive funds under this section
5 through a contract with a community health
6 center under paragraph (1), such rural health
7 clinic shall establish policies to ensure—

8 “(i) nondiscrimination based upon the
9 ability of a patient to pay; and

10 “(ii) the establishment of a sliding fee
11 scale for low-income patients.”.

12 **SEC. 14. APPLICATION OF THE TEMPORARY MEDICARE**
13 **PAYMENT INCREASE FOR HOME HEALTH**
14 **SERVICES FURNISHED IN A RURAL AREA TO**
15 **2008.**

16 Section 421 of the Medicare Prescription Drug, Im-
17 provement, and Modernization Act of 2003 (42 U.S.C.
18 1395fff note), as amended by section 5201(b) of the Def-
19 icit Reduction Act of 2005 (42 U.S.C. 1395fff note), is
20 amended—

21 (1) in the section heading, by striking “**ONE-**
22 **YEAR**” and inserting “**TEMPORARY**”; and

23 (2) in subsection (a), by inserting “and episodes
24 and visits ending on or after January 1, 2008, and
25 before January 1, 2009,” after “January 1, 2007,”.

1 **SEC. 15. EXTENSION OF INCREASED MEDICARE PAYMENTS**
2 **FOR RURAL GROUND AMBULANCE SERVICES.**

3 Section 1834(l)(13) of the Social Security Act (42
4 U.S.C. 1395m(l)(13)) is amended—

5 (1) in subparagraph (A), in the heading, by
6 striking “IN GENERAL” and inserting “FOR THE
7 SECOND HALF OF 2004 AND FOR 2005 AND 2006”;

8 (2) by redesignating subparagraph (B) as sub-
9 paragraph (C);

10 (3) by inserting the following after subpara-
11 graph (A):

12 “(B) FOR 2008 AND 2009 FOR RURAL
13 AREAS.—After computing the rates with respect
14 to ground ambulance services under the other
15 applicable provisions of this subsection, in the
16 case of such services furnished on or after Jan-
17 uary 1, 2008, and before January 1, 2010, for
18 which the transportation originates in a rural
19 area described in paragraph (9) or in a rural
20 census tract described in such paragraph, the
21 fee schedule established under this section shall
22 provide that the rate for the service otherwise
23 established, after application of any increase
24 under paragraphs (11) and (12), shall be in-
25 creased by 5 percent.”; and

1 (4) in subparagraph (C), as redesignated by
2 paragraph (2)—

3 (A) in the heading, by striking “APPLICA-
4 TION OF INCREASED PAYMENTS AFTER 2006”
5 and inserting “NO EFFECT ON SUBSEQUENT
6 PERIODS”; and

7 (B) by adding at the end the following new
8 sentence: “The increased payments under sub-
9 paragraph (B) shall not be taken into account
10 in calculating payments for services furnished
11 after the period specified in such subpara-
12 graph.”.

13 **SEC. 16. COVERAGE OF MARRIAGE AND FAMILY THERAPIST**
14 **SERVICES AND MENTAL HEALTH COUNSELOR**
15 **SERVICES UNDER PART B OF THE MEDICARE**
16 **PROGRAM.**

17 (a) COVERAGE OF SERVICES.—

18 (1) IN GENERAL.—Section 1861(s)(2) of the
19 Social Security Act (42 U.S.C. 1395x(s)(2)) is
20 amended—

21 (A) in subparagraph (Z), by striking
22 “and” after the semicolon at the end;

23 (B) in subparagraph (AA), by inserting
24 “and” after the semicolon at the end; and

1 (C) by adding at the end the following new
2 subparagraph:

3 “(BB) marriage and family therapist services
4 (as defined in subsection (ccc)(1)) and mental health
5 counselor services (as defined in subsection
6 (ccc)(3));”.

7 (2) DEFINITIONS.—Section 1861 of the Social
8 Security Act (42 U.S.C. 1395x) is amended by add-
9 ing at the end the following new subsection:

10 “Marriage and Family Therapist Services; Marriage and
11 Family Therapist; Mental Health Counselor Serv-
12 ices; Mental Health Counselor

13 “(ccc)(1) The term ‘marriage and family therapist
14 services’ means services performed by a marriage and
15 family therapist (as defined in paragraph (2)) for the diag-
16 nosis and treatment of mental illnesses, which the mar-
17 riage and family therapist is legally authorized to perform
18 under State law (or the State regulatory mechanism pro-
19 vided by State law) of the State in which such services
20 are performed, as would otherwise be covered if furnished
21 by a physician or as an incident to a physician’s profes-
22 sional service, but only if no facility or other provider
23 charges or is paid any amounts with respect to the fur-
24 nishing of such services.

1 “(2) The term ‘marriage and family therapist’ means
2 an individual who—

3 “(A) possesses a master’s or doctoral degree
4 which qualifies for licensure or certification as a
5 marriage and family therapist pursuant to State
6 law;

7 “(B) after obtaining such degree has performed
8 at least 2 years of clinical supervised experience in
9 marriage and family therapy; and

10 “(C) in the case of an individual performing
11 services in a State that provides for licensure or cer-
12 tification of marriage and family therapists, is li-
13 censed or certified as a marriage and family thera-
14 pist in such State.

15 “(3) The term ‘mental health counselor services’
16 means services performed by a mental health counselor (as
17 defined in paragraph (4)) for the diagnosis and treatment
18 of mental illnesses which the mental health counselor is
19 legally authorized to perform under State law (or the
20 State regulatory mechanism provided by the State law) of
21 the State in which such services are performed, as would
22 otherwise be covered if furnished by a physician or as inci-
23 dent to a physician’s professional service, but only if no
24 facility or other provider charges or is paid any amounts
25 with respect to the furnishing of such services.

1 “(4) The term ‘mental health counselor’ means an
2 individual who—

3 “(A) possesses a master’s or doctor’s degree in
4 mental health counseling or a related field;

5 “(B) after obtaining such a degree has per-
6 formed at least 2 years of supervised mental health
7 counselor practice; and

8 “(C) in the case of an individual performing
9 services in a State that provides for licensure or cer-
10 tification of mental health counselors or professional
11 counselors, is licensed or certified as a mental health
12 counselor or professional counselor in such State.”.

13 (3) PROVISION FOR PAYMENT UNDER PART
14 b.—Section 1832(a)(2)(B) of the Social Security Act
15 (42 U.S.C. 1395k(a)(2)(B)) is amended by adding
16 at the end the following new clause:

17 “(v) marriage and family therapist
18 services (as defined in section
19 1861(ccc)(1)) and mental health counselor
20 services (as defined in section
21 1861(ccc)(3));”.

22 (4) AMOUNT OF PAYMENT.—Section 1833(a)(1)
23 of the Social Security Act (42 U.S.C. 1395l(a)(1))
24 is amended—

1 (A) by striking “and (V)” and inserting
2 “(V)”; and

3 (B) by inserting before the semicolon at
4 the end the following: “, and (W) with respect
5 to marriage and family therapist services and
6 mental health counselor services under section
7 1861(s)(2)(BB), the amounts paid shall be 80
8 percent of the lesser of the actual charge for
9 the services or 75 percent of the amount deter-
10 mined for payment of a psychologist under sub-
11 paragraph (L)”.

12 (5) EXCLUSION OF MARRIAGE AND FAMILY
13 THERAPIST SERVICES AND MENTAL HEALTH COUN-
14 SELOR SERVICES FROM SKILLED NURSING FACILITY
15 PROSPECTIVE PAYMENT SYSTEM.—Section
16 1888(e)(2)(A)(ii) of the Social Security Act (42
17 U.S.C. 1395yy(e)(2)(A)(ii)) is amended by inserting
18 “marriage and family therapist services (as defined
19 in section 1861(ccc)(1)), mental health counselor
20 services (as defined in section 1861(ccc)(3)),” after
21 “qualified psychologist services,”.

22 (6) INCLUSION OF MARRIAGE AND FAMILY
23 THERAPISTS AND MENTAL HEALTH COUNSELORS AS
24 PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Sec-
25 tion 1842(b)(18)(C) of the Social Security Act (42

U.S.C. 1395u(b)(18)(C)) is amended by adding at the end the following new clauses:

“(vii) A marriage and family therapist (as defined in section 1861(ccc)(2)).

“(viii) A mental health counselor (as defined in section 1861(ccc)(4)).”.

(b) COVERAGE OF CERTAIN MENTAL HEALTH SERVICES PROVIDED IN CERTAIN SETTINGS.—

(1) RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.—Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B)) is amended by striking “or by a clinical social worker (as defined in subsection (hh)(1))” and inserting “, by a clinical social worker (as defined in subsection (hh)(1)), by a marriage and family therapist (as defined in subsection (ccc)(2)), or by a mental health counselor (as defined in subsection (ccc)(4))”.

(2) HOSPICE PROGRAMS.—Section 1861(dd)(2)(B)(i)(III) of the Social Security Act (42 U.S.C. 1395x(dd)(2)(B)(i)(III)) is amended by inserting “or one marriage and family therapist (as defined in subsection (ccc)(2))” after “social worker”.

1 (c) AUTHORIZATION OF MARRIAGE AND FAMILY
 2 THERAPISTS TO DEVELOP DISCHARGE PLANS FOR POST-
 3 HOSPITAL SERVICES.—Section 1861(ee)(2)(G) of the So-
 4 cial Security Act (42 U.S.C. 1395x(ee)(2)(G)) is amended
 5 by inserting “marriage and family therapist (as defined
 6 in subsection (ccc)(2)),” after “social worker,”.

7 (d) EFFECTIVE DATE.—The amendments made by
 8 this section shall apply with respect to services furnished
 9 on or after January 1, 2008.

10 **SEC. 17. EXTENSION OF TREATMENT OF CERTAIN PHYSI-**
 11 **CIAN PATHOLOGY SERVICES UNDER MEDI-**
 12 **CARE.**

13 Section 542(c) of the Medicare, Medicaid, and
 14 SCHIP Benefits Improvement and Protection Act of 2000
 15 (as enacted into law by section 1(a)(6) of Public Law 106–
 16 554), as amended by section 732 of the Medicare Prescrip-
 17 tion Drug, Improvement, and Modernization Act of 2003
 18 (42 U.S.C. 1395w–4 note) and section 104 of division B
 19 of the Tax Relief and Health Care Act of 2006 (42 U.S.C.
 20 1395w–4 note), is amended by striking “and 2007” and
 21 inserting “2007, 2008, and 2009”.

22 **SEC. 18. MEDICARE REMOTE MONITORING PILOT**
 23 **PROJECTS.**

24 (a) PILOT PROJECTS.—

(1) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall conduct pilot projects under title XVIII of the Social Security Act for the purpose of providing incentives to home health agencies to utilize home monitoring and communications technologies that—

(A) enhance health outcomes for Medicare beneficiaries; and

(B) reduce expenditures under such title.

(2) SITE REQUIREMENTS.—

(A) URBAN AND RURAL.—The Secretary shall conduct the pilot projects under this section in both urban and rural areas.

(B) SITE IN A SMALL STATE.—The Secretary shall conduct at least 3 of the pilot projects in a State with a population of less than 1,000,000.

(3) DEFINITION OF HOME HEALTH AGENCY.—

In this section, the term “home health agency” has the meaning given that term in section 1861(o) of the Social Security Act (42 U.S.C. 1395x(o)).

(b) MEDICARE BENEFICIARIES WITHIN THE SCOPE OF PROJECTS.—The Secretary shall specify the criteria

1 for identifying those Medicare beneficiaries who shall be
2 considered within the scope of the pilot projects under this
3 section for purposes of the application of subsection (c)
4 and for the assessment of the effectiveness of the home
5 health agency in achieving the objectives of this section.
6 Such criteria may provide for the inclusion in the projects
7 of Medicare beneficiaries who begin receiving home health
8 services under title XVIII of the Social Security Act after
9 the date of the implementation of the projects.

10 (c) INCENTIVES.—

11 (1) PERFORMANCE TARGETS.—The Secretary
12 shall establish for each home health agency partici-
13 pating in a pilot project under this section a per-
14 formance target using one of the following meth-
15 odologies, as determined appropriate by the Sec-
16 retary:

17 (A) ADJUSTED HISTORICAL PERFORMANCE
18 TARGET.—The Secretary shall establish for the
19 agency—

20 (i) a base expenditure amount equal
21 to the average total payments made to the
22 agency under parts A and B of title XVIII
23 of the Social Security Act for Medicare
24 beneficiaries determined to be within the

1 scope of the pilot project in a base period
2 determined by the Secretary; and

3 (ii) an annual per capita expenditure
4 target for such beneficiaries, reflecting the
5 base expenditure amount adjusted for risk
6 and adjusted growth rates.

7 (B) COMPARATIVE PERFORMANCE TAR-
8 GET.—The Secretary shall establish for the
9 agency a comparative performance target equal
10 to the average total payments under such parts
11 A and B during the pilot project for comparable
12 individuals in the same geographic area that
13 are not determined to be within the scope of the
14 pilot project.

15 (2) INCENTIVE.—Subject to paragraph (3), the
16 Secretary shall pay to each participating home care
17 agency an incentive payment for each year under the
18 pilot project equal to a portion of the Medicare sav-
19 ings realized for such year relative to the perform-
20 ance target under paragraph (1).

21 (3) LIMITATION ON EXPENDITURES.—The Sec-
22 retary shall limit incentive payments under this sec-
23 tion in order to ensure that the aggregate expendi-
24 tures under title XVIII of the Social Security Act
25 (including incentive payments under this subsection)

1 do not exceed the amount that the Secretary esti-
2 mates would have been expended if the pilot projects
3 under this section had not been implemented.

4 (d) WAIVER AUTHORITY.—The Secretary may waive
5 such provisions of titles XI and XVIII of the Social Secu-
6 rity Act as the Secretary determines to be appropriate for
7 the conduct of the pilot projects under this section.

8 (e) REPORT TO CONGRESS.—Not later than 5 years
9 after the date that the first pilot project under this section
10 is implemented, the Secretary shall submit to Congress a
11 report on the pilot projects. Such report shall contain a
12 detailed description of issues related to the expansion of
13 the projects under subsection (f) and recommendations for
14 such legislation and administrative actions as the Sec-
15 retary considers appropriate.

16 (f) EXPANSION.—If the Secretary determines that
17 any of the pilot projects under this section enhance health
18 outcomes for Medicare beneficiaries and reduce expendi-
19 tures under title XVIII of the Social Security Act, the Sec-
20 retary may initiate comparable projects in additional
21 areas.

22 (g) INCENTIVE PAYMENTS HAVE NO EFFECT ON
23 OTHER MEDICARE PAYMENTS TO AGENCIES.—An incen-
24 tive payment under this section—

(1) shall be in addition to the payments that a home health agency would otherwise receive under title XVIII of the Social Security Act for the provision of home health services; and

(2) shall have no effect on the amount of such payments.

SEC. 19. FACILITATING THE PROVISION OF TELEHEALTH SERVICES ACROSS STATE LINES.

(a) IN GENERAL.—For purposes of expediting the provision of telehealth services, for which payment is made under the Medicare program, across State lines, the Secretary of Health and Human Services shall, in consultation with representatives of States, physicians, health care practitioners, and patient advocates, encourage and facilitate the adoption of provisions allowing for multistate practitioner practice across State lines.

(b) DEFINITIONS.—In subsection (a):

(1) TELEHEALTH SERVICE.—The term “telehealth service” has the meaning given that term in subparagraph (F) of section 1834(m)(4) of the Social Security Act (42 U.S.C. 1395m(m)(4)).

(2) PHYSICIAN, PRACTITIONER.—The terms “physician” and “practitioner” have the meaning given those terms in subparagraphs (D) and (E), respectively, of such section.

1 (3) MEDICARE PROGRAM.—The term “Medicare
2 program” means the program of health insurance
3 administered by the Secretary of Health and Human
4 Services under title XVIII of the Social Security Act
5 (42 U.S.C. 1395 et seq.).

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